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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/797,283 | 03/10/2004 | Kenneth Alder | | 2940 |

7590 12/16/2004
Stephen E. Feldman, P.C.
12 East 41st Street
Brooklyn, NY 10017

EXAMINER

HURLEY, KEVIN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3611

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,283

Applicant(s)

ALDER, KENNETH

Examiner

Kevin Hurley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication..
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: there is no antecedent for the terms “left and right side tubes” used in claim 1.

The specification contains references to a Figure 2. However, no such figure exists. The specification should be amended to remove these references.

Drawings

2. The drawings are objected to because the views are not numbered consecutively as set forth in 37 CFR 1.84(u).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement

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Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 it is recited that “the front end of each tube being in rigid communication with the lower end of the stem, the left and right side tubes being incapable of separately rotating about the lower end of the stem”. The next paragraph then contradicts this by reciting “the left and right tubes being capable of pivoting about the front end of the tubes”. A rigid connection would not allow pivoting.

In the last sentence of claim 1 it is recited that “to place training wheels between the ground and chain stay tubes of the bicycle frame”, however, the wheels have not been claimed.

Claim 5 does not make grammatical sense. It appears that “extending” should be -- extends--. Also “tubs” should be --tubes--.

Claim 6 recites that the “front of each side tube being rigidly connected to the outside

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edge of the front tube”, however, claim 1 recites that the side tubes are connected to the stem.

In claim 8 “each respective rear tube” lacks proper antecedent basis.

Claims 8-9 depends from themselves.

In claim 10 “where the clamp being capable of mounting to a bycile” should be --wherein the clamp is capable of being mounted to a bicycle” to make grammatical sense.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-10 (as understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Kutil.

Note: the use of the term “kickstand clamp” has only been interpreted as a clamp, since there is no art recognized standard as to what structure comprises a kickstand clamp.

Kutil discloses a training wheel frame, comprising: a stem 32, the stem having an upper and lower end, the upper end capable of being connected to a bicycle frame; left and right side tubes 29, each of the side tubes having a front end, and the left and right tubes being capable of pivoting about the front end of the tubes to place training wheels between the ground and the chain stay tubes of the bicycle frame, where the mechanism comprises a clamp 36, the clamp capable of receiving one bolt 33 for connecting the mechanism to the bicycle frame, the frame having a left and right training wheels 26, each wheel being respectively connected to the rear of

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each respective side tube, each wheel being capable of rotating about the rear end of each respective side tube, wherein the top of the stem is capable of being connected to a pair of bicycle chain stays, wherein the rear end of each side tube extends rearward of the front end by a distance not greater than the length of chain stay tubes, further comprising a front horizontal tube 30, the front tube having a first and second outer edges and a center, the center of the front tube being connected to the bottom of the stem, the center of the front tube capable of pivoting within the bottom of the stem, where the front of each side tube being rigidly connected to the outside edge of the front tube, further comprising a compression fitting, the compression fitting 31 connecting the front tube to the stem where the front tube being welded to the side tubes, where the axis of rotation of the front tube being parallel to the axis of rotation of the rear wheel of the bicycle, where the clamp is capable of being mounted to a bicycle without a kickstand bracket, said clamp having means for preventing the rotation of the clamp.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose vehicle bifurcated stands and training wheel assemblies.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Hurley whose telephone number is 703-308-0233. The examiner can normally be reached on Monday-Friday 9:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin Hurley
Primary Examiner
Art Unit 3611

December 13, 2004